

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 1:05-CR-236

v.

HON. ROBERT HOLMES BELL

TERRY LEE SMITH,

Defendant.

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**MEMORANDUM OPINION AND ORDER**

This matter is before the Court on defendant's Motion for Modification or Reduction of Sentence Pursuant to 18 U.S.C. §3582(c)(2) (docket #40). Based on a review of defendant's motion, the Sentence Modification Report, submission by counsel on behalf of the defendant, and the original criminal file, the Court has determined that the motion should be denied for the following reason(s):

Defendant was sentenced on March 23, 2006, to 96 months custody after pleading guilty to Possession with Intent to Distribute 5 Grams or More of a Mixture or Substance Containing a Detectable Amount of Cocaine Base (Crack Cocaine) in violation of 21 U.S.C. 841(a)(1) and 841(b)(1)(B)(iii), and being a Felon in Possession of a Firearm in violation of 18 U.S.C. §922(g).

As stated in the Sentence Modification Report and as acknowledged by both the

defendant and the government, Amendment 706 does not result in a lower guideline range and therefore defendant is not eligible for a sentence reduction under 18 U.S.C. §3582(c)(2) and USSG §1B1.10.

DATED: February 1, 2010

/s/ Robert Holmes Bell  
ROBERT HOLMES BELL  
UNITED STATES DISTRICT JUDGE